

From: Bob Potts [bob@centralpaving.com]
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To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219-AB44

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MSHA/OSRV

To whom it may concern:

RE: MSHA's new proposed penalty structure.

My name is Bob Potts, I have been in the mining business for approximately 25 years. I am a Platinum level member of the Joseph A. Holmes Safety Association. I have been a foreman, Supervisor, or Manager with control of Portable Rock Crushers in various Western States for approximately 21 years. I have been through many MSHA inspections throughout those years.

Working in the Heavy Highway Construction arena I have worked closely with OSHA in the construction side of the business, and with MSHA in the aggregate production side of the business. I agree with the principles of MSHA and OSHA, knowing that we are trying to give our workers a safer and more productive work environment. However, there are several problems I see with the new proposed single violation assessed penalties proposed by MSHA.

1. If MSHA is going to impose higher penalties the rules will need to be re-written to lead to less personal interpretation by both the mine operator and the enforcement officer. IE ("Openings above, below, or near travel-ways through which persons or materials may fall shall be protected by railings, barriers, or covers. Where it is impractical to install such protective devices, adequate warning signals shall be installed." Is this fall 6 inches or 6 feet or 60 feet?)
2. Any penalty that is neither S&S nor highly negligible should not be assessed if repaired in a timely manner IE (a tail light out on a truck, a working fire extinguisher not punched for the month)
3. In the past I have had many inspectors inspect the same plant. We get the plant guarded to one inspectors expectations and the new inspector would give us citations on the same guards the previous inspector had deemed acceptable or in some instances even suggested.
4. I have had the feeling on several different inspections that the inspector, if he could not find anything to cite he would start looking in the gray area's (I even had one inspector comment he could not go away without one citation, his supervisor would not accept that.)
5. Due to the business environment today, most mines try to work safely with in-house safety policies and procedures. Wouldn't MSHA's resources be better spent training inspectors, miners, and contractors in the latest safety advancements, working as partners to keep our work force safe? A good example of this is the SLAM program presented by MSHA. It is being implemented as part of the "SLAM The door on the fatal four" by our local OSHA office. Training is being given to all of our miners using this.
6. I feel that the small mines don't have a chance with the new proposed penalties.. Most of the operations I have been on included less than 10 miners working at any given time. Usually no more than 5 miners working at any given time, in open pit sand and gravel operations on portable plants.
7. I am currently employed by a company that is partnered with OSHA. In Idaho this is a pilot program and is working well. Maybe MSHA should look at this program and see if it would fit their objectives.
8. I feel that with the new proposed fines MSHA is going to be mired with law suits regarding the exact wording of many of their standards and interpretations of the different citations issued.

I feel that the new proposed penalties would help less with the compliance issues that MSHA is seeing in the small sand and gravel mines. I feel that more education by MSHA, rules that are less vague, and more guidance by the local MSHA office would lead to a safer work place. I feel most small mines would benefit from MSHA if they provided better education and training leadership in the Mine Safety arena, instead of the local police if you will. In our area at this time it feels as if enforcement is a high concern, not the safety of the work force. Higher enforcement standards and penalties does not seem to me to be the way to get miners and contractors to work together with MSHA. Working together, I think we have a better chance of keeping our work force in a safe work environment.

Sincerely,
Bob Potts

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